

Army National Guard and Army Reserve

Qualifying Service for Retired Pay Nonregular Service

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SUMMARY of CHANGE

AR 135-180

Qualifying Service for Retired Pay Nonregular Service

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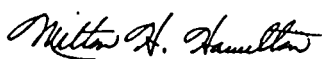
Army National Guard and Army Reserve

Qualifying Service for Retired Pay Nonregular Service

By Order of the Secretary of the Army:

GORDON R. SULLIVAN
General, United States Army
Chief of Staff

Official:



MILTON H. HAMILTON
Administrative Assistant to the
Secretary of the Army

History. The original form of this regulation was first published on 22 August 1974. Since that time, changes have been issued to amend the original. As of 24 August 1987, Change 1 is rescinded; and permanent Changes 2 through 12 remain in effect. This UPDATE

printing incorporates those changes directly into the body of text.

Summary.

Applicability. (See para 1-1.)

Proponent and exception authority.
Not applicable

Army management control process.
This regulation is not subject to the requirements of AR 11-2. It does not contain internal control provisions.

Supplementation. Supplementation of this regulation and the establishment of forms other than DA Forms are prohibited without prior approval from Commander, U.S. Army Reserve Personnel Center, ATTN: DARP-ZAP-P, 9700 Page Boulevard, St. Louis, MO 63132-5200. Interim changes. Interim changes to this regulation are not official unless they are authenticated by The

Adjutant General. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

Suggested Improvements. The proponent agency of this regulation is the Office of the Deputy Chief of Staff for Personnel. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to Commander, U.S. Army Reserve Personnel Center, ATTN: DARP-ZAP-P, 9700 Page Boulevard, St. Louis, MO 63132-5200.

Distribution. Active Army: C; USAR and ARNG: A.

Contents (Listed by paragraph and page number)

Chapter 1

General, page 1

Purpose • 1-1, page 1
Statutory authority • 1-2, page 1
Orientation • 1-3, page 1
Explanation of terms • 1-4, page 1

Chapter 2

Criteria, page 1

Eligibility • 2-1, page 1
Application • 2-2, page 1
Notification of retired pay eligibility • 2-3, page 2
Statements of service and retirement point credits • 2-4, page 2
Date retired pay begins • 2-5, page 2
Placement on Army of the United States Retired List • 2-6, page 2
Certificate of Retirement • 2-7, page 2
Service creditable as qualifying service • 2-8, page 3
Service not creditable as qualifying service • 2-9, page 3
Computation of service • 2-10, page 4
Computation of retired pay • 2-11, page 4

Chapter 3

Reserve Component Survivor Benefit Plan, page 4

Purpose • 3-1, page 4
General • 3-2, page 4
Policies regarding notification of SBP options • 3-3, page 5
Amount of coverage and cost • 3-4, page 5

Responsibilities • 3-5, page 5

Chapter 4

Other Benefits, page 5

Annuities under Civil Service • 4-1, page 5
Dual compensation • 4-2, page 5
Payment of pensions or compensation by the Veterans Administration • 4-3, page 5
Survivor benefits • 4-4, page 5
Medical care • 4-5, page 6
Commissary and exchange privileges • 4-6, page 6
Entitlement • 4-7, page 6

Figure List

Figure 2-1: Format for notification, page 6

RESERVED

Chapter 1 General

1-1. Purpose

This regulation implements statutory authorities governing the granting of “retired pay” to soldiers and former Reserve components soldiers.

1-2. Statutory authority

- a. Title 10, United States Code (USC), sections 1331–1337.
- b. Title 10, USC, section 676.
- c. Title 10, USC, section 1038.
- d. Title 10, USC, section 1074, as amended by the Military Medical Benefits Amendments of 1966 (Public Law (PL) 89–614; 80 Stat. 862).
- e. Title 37, USC, section 1001.

1-3. Orientation

This regulation will be made known to each person in an active status of the Reserve components. Persons no longer in an active status should, when possible, be advised of this regulation.

1-4. Explanation of terms

a. *Retired pay.* Pay granted soldiers and former Reserve components soldiers under title 10, USC, section 1331, after completion of 20 or more years of qualifying service and upon attaining age 60. This pay is based on the highest grade satisfactorily held at any time during a individual’s entire period of service, other than in an inactive section of a Reserve component.

b. *Soldiers and former soldiers.* A Reserve component soldier is one who holds a current status in the Army National Guard or the U.S. Army Reserve. Generally, for officers of the Army Reserve, an individual who accepted an indefinite term appointment under the provisions of 10 USC 337, and whose appointment has not been terminated, is a current soldier. A former soldier is one who formerly held status in a Reserve component, but who does not hold a current status in any such component.

c. *Years for percentage purposes.* This denotes total qualifying service converted to years for use as a multiplier in determining retired pay (paras 2–10b and 2–11b).

Chapter 2 Criteria

2-1. Eligibility

a. To be eligible for retired pay, an individual need not have a military status at the time of application, but must have—

- (1) Attained age 60.
- (2) Completed a minimum of 20 years of qualifying service.
- (3) Served the last 8 years of his or her qualifying service as a Reserve component soldier. Service in the Army of the United States, without specification of component, is deemed to be service in a Reserve component. Service performed concurrently in a Reserve component and the Regular Army, Navy, Air Force, Marine Corps, or Coast Guard is not creditable as service in a Reserve component for determining this period. The last 8 years of qualifying service need not be the last 8 years of military service, nor do they have to be continuous. *Examples:* An individual who: Served 14 years as a reservist and then 6 years in the Regular Army must serve an additional 6 years in a Reserve status to qualify for retired pay. Even though this person has completed 20 years of qualifying service, only 2 of the last 8 years of such service met the requirement of (3) above. Thus he or she must serve an additional 6 years in one of these categories to meet the requirement of the last 8 years of qualifying service. Served 13 years in the Regular Army, then 7 years as a reservist, followed by 4 years in the Regular Army must serve an additional year in a Reserve status to qualify for retired

pay. Even though he or she has completed over 20 years of qualifying service, he or she must serve 1 more year as a reservist to meet the requirement of the last 8 years of qualifying service.

(4) Performed active service during some portion of any of the following periods, if a Reserve component or Army of the United States soldier without component before 16 August 1945:

- (a) After 5 April 1917 and before 12 November 1918.
- (b) After 8 September 1940 and before 1 January 1947.
- (c) After 26 June 1950 and before 28 July 1953 (active duty other than for training).
- (d) After 13 August 1961 and before 31 May 1963; or after 4 August 1964 and before 28 March 1973 (active duty other than for training).

b. In addition, an applicant must—

(1) Not be entitled to retired pay from the Armed Forces under any other provision of law.

(2) Not have elected to receive disability severance pay in lieu of retired pay at age 60. Reserve personnel involuntarily relieved from active service who are not eligible for retired pay at time of release, but who are paid readjustment pay under the provisions of 10 USC 687, are eligible to receive retired pay under this regulation provided they are otherwise qualified at a later date.

(3) Not fall within the purview of the so-called “Hiss Act” (Act of 1 Sept. 1954, 68 Stat. 1142, as amended, 5 USC 8311–8322). This Act provides in general that persons, who are convicted of national-security-type offenses or who refuse to testify before a duly constituted judicial or congressional proceeding on a matter relating to national security, will be denied retirement benefits.

2-2. Application

a. It is the responsibility of each qualified individual to submit his or her application for retired pay. DD Form 108 (Application for Retired Pay Benefits) (10 USC 1331) is the only form on which application for this pay will be made.

b. Approximately 6 months prior to reaching age 60, eligible soldiers assigned to the Retired Reserve will receive DD Form 108 (Application for Retired Pay Benefits) and DA Form 4240 (Data for Payment of Retired Army Personnel) from ARPERCEN. Soldiers assigned to Army National Guard and Army Reserve units should obtain DD Form 108, and if available, the supporting form indicated above, from their unit commanders. Individuals who do not hold a current military status may obtain DD Form 108 from offices of State adjutants general, Reserve training centers, or from the Commander, U.S. Army Reserve Personnel Center (ARPERCEN), ATTN: DARP-PAR, 9700 Page Boulevard, St. Louis, MO 63132–5200.

c. One copy of completed DD Form 108 along with a completed copy of the form indicated in b above should be forwarded to the Commander, ARPERCEN, ATTN: DARP-PAR, 9700 Page Boulevard, St. Louis, MO 63132–5200. Should these forms not be available to the applicants, they may submit the completed copy of DD Form 108 and ARPERCEN will furnish the forms to them when they are certified for retired pay. DD Form 108 should not be submitted earlier than 120 nor later than 90 days prior to the date retired pay is to begin.

d. All forms will be completed as accurately as possible from information readily available to the applicant. In this connection, applicants will not request statements of service or other documents to assist in the preparation of their application. The applicant may forward any extra copies of statements of service, 20-year certification letters, reports of separation which they have in their possession which they feel may augment their Form 108 application. Item 6a of DD Form 108 will include all service numbers held during a soldier’s service and item 8 should show Reserve assignment if a current Reserve component soldier or, if discharged, show date of discharge. The effective date retired pay is to begin should be shown in item 3. The date pay may begin is outlined in paragraph 2–5.

e. General officers and warrant officers who have not completed 20 years of qualifying service by age 60 and who are eligible for retention and are retained in active status after that age under AR

140-10 (USAR Personnel) or NGR 635-100 and NGR 600-101 (ARNGUS Personnel) may file their applications when they complete 20 years of qualifying service. Additionally, general officers and warrant officers retained in active status after age 60, as provided in AR 135-32, may file their applications when eligible for retired pay or when they are removed from an active status.

f. A sergeant major E9 or master sergeant E8 who formerly held the title of Command sergeant major or first sergeant and who wishes to be shown on the AUS Retired list in his or her former title must include the following documents with the DD Form 108:

(1) A copy of the appointment to command sergeant major or first sergeant as appropriate. (Service in the duty position of first sergeant while in the grade E7 does not meet this requirement.)

(2) A copy of the release order from the command sergeant major or first sergeant status. (Service must have been satisfactory and the person was not released from that status for cause.)

2-3. Notification of retired pay eligibility

a. Under section 1331(d) of title 10, USC, each Reserve component soldier who completes the service required under paragraph 2-1 to be eligible for retired pay at age 60 under this regulation will be notified in writing within 1 year after he or she has completed that service. This notification will be issued by the CG, ARPERCEN, or Chief, NGB, as applicable, at the time 20 satisfactory years of service is completed. (See paragraph 3-5a for notification responsibilities.) The notification will be issued to those individuals credited with 20 years of qualifying service prior to discharge or transfer to the Retired Reserve. In instances where qualified soldiers have been discharged or transferred to the Retired Reserve prior to issuance of the letter of notification, the responsible authority indicated below that had jurisdiction during the individual's last period of service in an active status, will issue the notification letter. In such instances, when Reserve component personnel have been transferred to the Retired Reserve immediately upon release from active duty, the CG, ARPERCEN, will issue the letter. All of the conditions specified in paragraph 2-1, except attainment of age 60, must be met before the notification is issued to the soldier concerned. This notification will be issued in the format shown in figure 2-1 by—

(1) The CG, ARPERCEN, for USAR soldiers including reservists on active duty except for the reservists who are qualified for active duty retirement, or are within 2 years of qualifying and can remain on active duty to complete the required service.

(2) The Chief, National Guard Bureau for Army National Guard soldiers.

b. After a person has been granted retired pay under 10 USC 1331-1337 (provided the payment of the retired pay is begun after 14 October 1966), or has been notified in accordance with *a* above that he or she has completed the years of service required for eligibility for retired pay at age 60, the person's eligibility for retired pay may not be denied or revoked on the basis of any error, miscalculation, misinformation, or administrative determination of years of service performed, unless it resulted directly from the fraud or misrepresentation of the individual concerned. The number of years of creditable service upon which retired pay is computed may be adjusted to correct any error, miscalculation, misinformation, or administrative determination, and when such a correction is made the person is entitled to retired pay in accordance with the number of years of creditable service, as corrected, from the date he or she is granted retired pay (10 USC 1406; Act of 14 Oct 66 PL 89-652; 80 Stat. 902). An individual's eligibility for retired pay may be denied or revoked on the basis of an error or administrative determination in service requirements of paragraph 2-1a(4).

c. Effective control is essential to ensure that qualifying service is accurately computed and for the timely notification of individuals concerned. Suitable controls and Procedures will be established by the responsible officials to ensure that erroneous administrative determinations are avoided. Direct communication between custodians of personnel records is encouraged when necessary for verifying periods of service and retirement point credits.

d. The notification will be issued in the name of the appropriate official designated in *a* above and will be authenticated by the handwritten signature of the official immediately responsible for the determination of the eligibility of the soldier being notified. A copy of the notification will be made a permanent part of the soldier's Military Personnel Records Jacket (MPRJ) and Official Military Personnel File (OMPF).

2-4. Statements of service and retirement point credits

a. Area commanders and CG, ARPERCEN will furnish statements of service and retirement point credits when requested by Ready Reserve soldiers under their jurisdiction. When local records available in the Reserve units do not conclusively establish the soldier's creditable service, and completion of 20 years qualifying service, or mandatory removal from active status, other than through elimination action or age, is eminent, the area commanders will request CG, ARPERCEN, ATTN: DARP-PAR to verify the doubtful period(s) of service. Area commanders will make maximum efforts to locate missing and unaccounted for retirement point records (to include inquiry with the servicing DPA). Each request sent to CG, ARPERCEN will include the following:

(1) Name, grade, all service numbers, and SSN of Reserve soldier.

(2) Organization assignment if request is for missing or unaccounted for retirement point records.

(3) Specific reason for request.

(4) Date of mandatory removal from active status in USAR.

b. Reservists assigned to the Standby and Retired Reserve may request statements of service and retirement point credits from CG, ARPERCEN, ATTN: DARP-PAR.

c. The above mentioned statements of service will be furnished on DA Form 5016-R (Chronological Record of Military Service). DA Form 5016-R will be reproduced locally on 8½ X 11 paper, head to head in accordance with figure 2-2. (*A local reproduction master copy, with the figure number removed, is furnished at the end of this volume.*)

d. The provisions of paragraph 11, NGR 640-1 apply to Army National Guard Personnel.

2-5. Date retired pay begins

a. Orders will be issued by the CG, ARPERCEN announcing the effective date eligible persons are entitled to retired pay. This pay will begin on the day in which the individual qualifies therefor, or any later date as elected on the application form (DD Form 108), unless the statute of limitations applies.

b. As of 2 July 1975, the statute of limitations require that a claim must be filed within 6 years from the date it first accrued. If not filed within the 6 year limitation, 1 day's retired pay will be lost for each day of delay in filing the claim application. For example, if age 60 was attained on 2 July 1969 and the application for retired pay is not recorded in the General Accounting Office until 2 September 1975, payment can be made only from 2 September 1969.

c. Persons who were Reserve Component or Army of the United States soldiers before 16 August 1945 and qualified under paragraph 2-1a(4)(d) are entitled to retired pay starting after 30 September 1983.

2-6. Placement on Army of the United States Retired List

a. Names of commissioned officers and former commissioned officers of the Reserve components granted retired pay will be placed on the Army of the United States Retired List, published biennially in the Official U.S. Army Register.

b. Names of warrant officers and enlisted personnel granted retired pay will not be placed in the U.S. Army Register.

c. Placement on the Army of the United States Retired List in no way confers a Reserve appointment to former officers whose Reserve appointments terminated prior to being granted retired pay.

2-7. Certificate of Retirement

DD Form 363A (Certificate of Retirement) will be furnished by the CG, ARPERCEN at the time retired pay orders are issued.

2-8. Service creditable as qualifying service

Service performed in the status of a commissioned officer; warrant officer; nurse; flight officer; enlisted person; Army field clerk; field clerk; Quartermaster Corps; and, in the case of warrant officers, classified field service as an Army Headquarters clerk or clerk, Quartermaster Corps (under laws in effect prior to 29 August 1916), in an active status in any of the following may be credited as qualifying service:

- a. Before 1 July 1949 service in any of the following:
 - (1) The federally recognized National Guard before 15 June 1933, including service in the Organized Militia of the several States, Territories and the District of Columbia as it existed subsequent to 21 January 1903.
 - (2) A federally recognized status in the National Guard before 15 June 1933 or the National Guard after 14 June 1933, if service was continuous from date of enlistment in the National Guard, or from date of Federal recognition, in the case of officers and warrant officer to date of enlistment or appointment in the Army or Air National Guard of the United States.
 - (3) The National Guard of the United States.
 - (4) The National Guard while in the service of the United States.
 - (5) The Army Reserve in an active Reserve status (includes the Officer's Reserve Corps and the Enlisted Reserve Corps of the Organized Reserve Corps).
 - (6) The U.S. Naval Reserve and the U.S. Naval Reserve Force.
 - (7) The Marine Corps Reserve and the Marine Corps Reserve Force.
 - (8) The Limited Service Marine Corps Reserve.
 - (9) The Naval Militia after 15 February 1914 that conformed to the standards prescribed by the Secretary of the Navy.
 - (10) The National Naval Volunteers.
 - (11) The Air National Guard of the United States.
 - (12) The Air National Guard while in the service of the United States.
 - (13) The U.S. Air Force Reserve (the officers' and enlisted sections).
 - (14) The Air Force of the United States, without specification of component, prior to 1 July 1948.
 - (15) The U.S. Coast Guard.
 - (16) The U.S. Coast Guard Reserve except the temporary soldiers thereof.
 - (17) The Regular Army Reserve.
 - (18) The Philippine Scouts.
 - (19) The Regular Army, the Regular Navy, the Regular Marine Corps and the Regular Air Force, except that service in a Regular component performed in enlisted status after date of qualification for retired pay may not be counted for any purpose under this regulation.
 - (20) Student's Army Training Corps, subsequent to 1 October 1918 and prior to 31 December 1918, if such service was performed as an enlisted man.
 - (21) U.S. Volunteers (service between 8 April 1898 and 30 June 1901, only).
 - (22) Women's Army Corps, including active service in the Women's Army Auxiliary Corps after 13 May 1942 and before 30 September 1943, if soldier performed active service in the Armed Forces after 29 September 1943.
 - (23) The Army or the Air Force of the United States, without specification of component. AUS appointments made under the statutes below terminated on dates specified unless sooner vacated:
 - a. Appointments as commissioned officers made after 6 December 1941 under the Joint Resolution of 22 September 1941. These appointments terminated 31 March 1953.
 1. Disabled officers and officers who completed a course of medical instructions at Government expense under the Act of 6 February

1942. These appointments terminated 31 March 1953, or date of relief from active duty, whichever is later.

2. Women's Army Corps. These appointments terminated 31 March 1953.

(b) Warrant officers temporarily appointed under the Act of 21 August 1941. These appointments terminated 1 April 1953.

(c) Flight officers appointed under the Act of 8 July 1942. These appointments terminated 28 October 1952.

(24) Aviation Cadet, U.S. Naval Reserve, if such service was performed under the Act of 15 April 1935.

(25) Active service in the Army Nurse Corps, the Navy Nurse Corps, the Nurse Corps Reserve of the Army, or Nurse Corps Reserve of the Navy, as it existed at any time after 2 February 1901.

(26) Service in the Army under an appointment made under the Act of 22 December 1942 or the Act of 22 June 1944 (certain classes of female Officers).

(27) Active full-time status, except as a student or apprentice, with the Medical Department of the Army as a civilian employee.

(a) In the dietetic or physical therapy categories, if the service was performed after 6 April 1917 and before 1 April 1943.

(b) In the occupational therapy category, if service was performed before appointment in the Army Nurse Corps or the Women's Medical Specialist Corps and before 1 January 1949.

(28) Service as a cadet at the U.S. Military Academy under an appointment made before 24 August 1912 or as a midshipman at the U.S. Naval Academy under an appointment made before 4 March 1913 is credited as active duty in determining the years for percentage purposes. Such cadet and midshipman service may not be used to determine qualification for retired pay.

(29) Active service in the commissioned corps of the U.S. Public Health Service performed after 28 July 1945.

(30) Active commissioned service in the U.S. Coast and Geodetic Survey during such time officer was transferred to the service and jurisdiction of a military department pursuant to section 16, Act of 22 May 1917 (33 USC 855).

(31) Service performed after qualification for retired pay only if retention in an active duty status or in an active Reserve Component is effected under 10 USC 676.

(32) Service after the date prescribed for mandatory removal from active duty status only if retention in an active duty status is directed under express statutory authority.

b. After 30 June 1949, a reservist must earn a minimum of 50 retirement points each retirement year to have that year credited as qualifying service. Only soldiers assigned to an active status in a Reserve Component or individuals inactive Federal service are authorized to earn retirement point credits. When a person is in an active status for a period less than a full retirement year, a minimum number of retirement points are required to be earned in order to have that period credited as qualifying service. AR 140-185 and NGR 640-1 contain tables which specify the number of points required for this purpose, and detailed information concerning establishment of the retirement year and the crediting, recording, and earning of retirement points.

c. Service shown in *a* and *b* above, in addition to being credited as qualifying service, is also converted into "years for percentage purposes."

2-9. Service not creditable as qualifying service

The following is not creditable as qualifying service.

a. Service in any one of the following sections of the Organized Reserve Corps:

- (1) Inactive Section, Officers' Reserve Corps.
- (2) Inactive Section, Enlisted Reserve Corps.
- (3) Auxiliary Reserve.
- (4) Unassigned Reserve.
- (5) Inactive Reserve.
- b. Inactive Status List of the Standby Reserve.
- c. Honorary Reserve.
- d. Retired Reserve.
- e. National Guard Reserve.
- f. Inactive National Guard.

g. Regular and Reserve Corps of the U.S. Public Health Service, except active service in the Commissioned Corps, as indicated in paragraph 2-8a(29).

h. Philippine Constabulary, before 4 July 1946.

i. Commissioned Corps of the Environmental Science Services and Administration; prior to 13 July 1965—Uniformed members of the U.S. Coast and Geodetic Survey, except active commissioned service as indicated in paragraph 2-8a(30).

j. Active status in the Ready Reserve, the Standby Reserve, and the Active National Guard after 30 June 1949, but insufficient retirement points earned for such service to be credited as qualifying service.

k. Time spent as a cadet or midshipman at the U.S. Military Academy, the U.S. Naval Academy, and the U.S. Coast Guard Academy may be counted as service for basic pay purposes in the computation of pay for enlisted men, but not for commissioned officers except as indicated in paragraph 2-8a(28).

l. Inactive service as a Reserve Nurse of the Army Nurse Corps established by the Act of 2 February 1901.

m. Constructive service—Medical and Dental Corps officers as defined in Chapter 1, Part One, DODPM.

n. Service in the Fleet Reserve or the Fleet Marine Corps Reserve.

2-10. Computation of service

a. Upon receipt of a DD Form 108, a computation to determine the number of years of qualifying service, years for percentage purposes, and years for basic pay purposes will be made by the CG, ARPERCEN. Generally, service begins on the date of enlistment or induction for enlisted personnel.

b. In determining the years for percentage purposes, credit of 1-day will be given for each point as follows:

(1) Before 1 July 1949—

(a) One point for each day of active duty.

(b) Fifty points for each year of service as a Reserve Component soldier as shown in paragraph 2-8a other than active duty. A proportionate part of 50 points for any fraction of a year will be credited.

(2) After 30 June 1949—

(a) One point for each day of active duty.

(b) Fifteen points for each year of membership in an active status in a Reserve Component.

(c) One point for each authorized participation in drills or periods of instruction which conform to the requirements prescribed by the Secretary of the Army. Not more than 60 points per year, including membership points, will be credited for inactive duty training in any one retirement year.

(3) Active duty means full-time duty in the active military service of the United States. It includes:

(a) Actual duty on the active list.

(b) Full-time training duty.

(c) Annual training duty.

(d) Attendance at a school designated as a service school by law or by the Secretary of the military department concerned while in active military service.

(e) Full-time duty performed by a member of the following:

1. Army National Guard of the United States.

2. Air National Guard of the United States.

3. Army and Air National Guard under 32 USC, sections 316, 502-505.

4. Active duty as reservist ordered to active duty or active duty for training (with his or her consent) without pay under competent orders requiring performance of such duty.

(4) It does not include:

(a) Attendance at service schools on invitational orders.

(b) Period of hospitalization beyond a tour of active duty training.

2-11. Computation of retired pay

a. Retired pay will be computed by the Retired Pay Division,

U.S. Army Finance Support Agency, Indianapolis, IN 46249, upon receipt of orders and data prescribed in paragraph 2-10, from the CG, ARPERCEN. (See AR 37-104-1.)

b. A person granted retired pay will receive such pay at an annual rate equal to 21/2 percent of the active duty annual basic pay which the individual would receive if serving on active duty, on the effective date of granting of retired pay, in the highest grade (temporary or permanent) satisfactorily held by him during his or her entire period of service multiplied by a number equal to the number of years, and any fraction thereof, on the basis of 360 days per year (years for percentage purposes) as determined pursuant to paragraph 2-10. No person will be entitled to receive retired pay at an annual rate in excess of 75 percent of the above-mentioned active duty annual pay. (See AR 37-104-1, chap 5.)

c. The Retired Activities Directorate, ARPERCEN will screen each retirement applicant's record to determine the highest grade held by him or her during his or her military service. In arriving at the highest grade satisfactorily held, the following criteria will apply:

(1) If the soldier was transferred to the Retired Reserve or discharged prior to 25 February 1975, retired grade will be that which the soldier held at time of transfer to the Retired Reserve or discharge, unless the soldier held a higher grade at least 185 days or six calendar months on active duty or in an active reserve status as a commissioned officer or enlisted soldier. If higher grade held was that of a warrant officer, soldier must have served on active duty or in an active reserve status for at least 31 days.

(2) If the soldier was transferred to the Retired Reserve or discharged on or after 25 February 1975, retired grade will be that grade which a commissioned officer or enlisted soldier held while on active duty or in an active reserve status for at least 185 days or six calendar months. A warrant officer must have served on active duty or in an active reserve status for at least 31 days.

(3) Service in the highest grade will not be deemed satisfactory and the case will be forwarded to the Secretary of the Army's Ad Hoc Review Board for final determination of the soldier's retirement grade if, during the mandatory review of the soldier's records by the Retired Activities Directorate, ARPERCEN, it is determined that any of the following factors exist:

(a) Revision to a lower grade was expressly for prejudice or cause, due to misconduct, or punishment pursuant to Article 15, UCMJ, or court-martial; or

(b) There is information in the soldier's service record to indicate clearly that the highest grade was not served satisfactorily.

Chapter 3 Reserve Component Survivor Benefit Plan

3-1. Purpose

This chapter provides policies and procedures for implementing Public Law 95-397 as amended.

3-2. General

a. The Reserve Component Survivor Benefit Plan (RC-SBP) allows Reserve component soldiers and former soldiers who have received notification of their eligibility for retired pay at age 60, to provide a survivor annuity for their dependents should the soldier or former soldier die before reaching age 60 and receipt of retired pay. Coverage is not automatic. Those eligible must elect one of the three options offered on the Survivor Benefit Plan Election Certificate (DD Form 1883), shown at figure 3-1. DD Form 1883 may be locally reproduced on 8½- by 11- inch paper, head to head. (*A local reproduction master copy, with the figure number removed, is furnished at the end of this volume.*)

b. Participation in the RC-SBP also extends benefits of the Uniformed Services Health Program (medical and dental care) to dependents on the date the deceased sponsor would have reached age 60.

c. All eligible personnel have 90 days from date of receipt of DD

Form 1883 to make their election and return the form to the appropriate office. ARNG soldiers will return the original copy of DD Form 1883 through National Guard channels to Chief, National Guard Personnel Center, ATTN: NGB-ARP-CR, 5600 Columbia Pike, Falls Church, VA 22041-5125. USAR soldiers will return the original copy of DD 1883 to Commander, U.S. Army Reserve Personnel Center (ARPERCEN), ATTN: DARP-PAR-P, 9700 Page Boulevard, St. Louis, MO 63132-5200.

d. Should the soldier elect Option A or fail to return DD Form 1883 within the prescribed time period, and die before reaching age 60, the survivors will not receive benefits under Public Law 95-397.

e. Failure of soldier to initially elect coverage at this time does not preclude eligibility to subsequently elect survivor benefit coverage under the Survivors Benefit Plan with application for retired pay upon reaching age 60.

f. Under the authority of the Adjutant General, the RC-SBP Board established at ARPERCEN may change or revoke an election when an administrative error or deficiency has occurred. Except when procured by fraud, the correction is final and applies to all officers of the United States.

3-3. Policies regarding notification of SBP options

a. Reserve component soldiers and former soldiers not yet 60 years old, who were issued letters of notification of eligibility for retired pay on or before 1 December 1979, were furnished SBP information and Election Certificate to allow for election of options prior to the cutoff date 1 April 1980.

b. Soldiers who complete 20 qualifying years of service after 1 December 1979 have, or will be furnished the SBP information and Election Certificate with issuance of their notification of eligibility (20 year) letter.

c. The SBP forms and information become time sensitive when received by the soldier. Those distributed by mail will request the return of an enclosed acknowledgment of receipt card to ensure control of the 90-day suspense period. The return envelope must be postmarked before the end of the 90-day period.

3-4. Amount of coverage and cost

a. Soldiers who elect Option B or C may provide a monthly annuity of up to 55 percent of the base amount minus an actuarial amount determined by the age of the beneficiary.

b. The monthly cost of participation in the RC-SBP is withheld from the soldier's monthly retired pay check. Cost of living retired pay raises will increase the cost and annuity benefit accordingly.

c. For soldiers who elect Option A, the provisions of AR 608-9, chap 5 apply.

3-5. Responsibilities

a. Notification of SBP options dispatched with 20 year retirement eligibility letters.

(1) After computation of service and determination of 20 creditable years of service, each Reserve component soldier will receive an SBP Election Certificate along with a letter of notification of eligibility for retired pay at age 60 from:

(a) Chief, NGB for ARNG soldiers.

(b) CG, ARPERCEN for all USAR soldiers.

(2) Area commanders will identify and prepare a statement of service (SOS) on USAR unit soldiers as they complete 20 creditable years of service. The SOS will be furnished on DA Form 5016-R. The soldier's current address will be indicated on the form and forwarded to CG, ARPERCEN, ATTN: DARP-PAR-P. ARPERCEN will issue the letter of notification of eligibility for retired pay with the SBP Election Certificate and provide the area commander with a transaction for updating the 20-year certification date on the unit Reserve Personnel Master File.

b. Suspense and control.

(1) Chief, NGB and CG, ARPERCEN will develop controls and procedures for the 90 day suspense provided in Public Law 95-397, respectively.

(2) Chief, NGB will transfer to ARPERCEN the original copy of

the completed Election Certificates of ARNG soldiers and former soldiers.

(3) A file of the completed election forms will be established and maintained at ARPERCEN. ARPERCEN will forward the appropriate Election Certificate to U.S. Army Finance and Accounting Center when a participant is certified for retired pay or dies prior to being certified for retirement pay.

c. Application for survivor benefits.

(1) Sponsor was not in receipt of retired pay.

(a) The spouse or surviving dependents will submit a death certificate to CG, ARPERCEN, ATTN: DARP-PAR. On receipt of death certificate by Director, Retired Activities, a computation of the deceased's service and the SBP Election Certificate will be forwarded to U.S. Army Finance and Accounting Center, ATTN: Retired Pay Operations, Department 92, when the deceased had elected Option C to provide an immediate annuity beginning on the day after date of death.

(b) On receipt of the death certificate by CG, ARPERCEN, ATTN: DARP-PAR, and the SBP Election Certificate shows the deceased has elected Option B, the survivor will be advised of future eligibility to receive an annuity on the date the deceased would have become 60 years of age. Director, Retired Activities will retain the death certificate and the Election Certificate until the deceased's 60th birthdate anniversary. At which time, both certificates will be sent to U.S. Army Finance and Accounting Center, as stated in (a) above.

(c) Upon receipt of death certificate should it be determined the deceased had elected Option A or had not elected option B or C within the required 90-day period, ARPERCEN will inform the surviving dependents of the ineligibility for an RC-SBP annuity.

(2) Sponsor was receiving retired pay. The spouse or surviving dependents will submit the death certificate directly to Commander, U.S. Army Finance and Accounting Center, ATTN: Retired Pay Operations, Indianapolis, IN 46249-5301.

(3) Upon notification of death per (1) (a), (b) and (2) above, Cdr, U.S. Army Finance and Accounting Center will forward to the survivor an application for annuity.

Chapter 4 Other Benefits

4-1. Annuities under Civil Service

Persons entitled to receive retired pay under these provisions may concurrently receive annuities under the provisions of title 5, USC, sections 8331-8348. (See 5 USC 8332(c) and 10 USC 1336).

4-2. Dual compensation

Persons authorized retired pay under this regulation are exempt from the restrictions of the Dual Compensation Act of 1964 (5 USC 5532).

4-3. Payment of pensions or compensation by the Veterans Administration

Persons authorized retired pay under this regulation who are receiving a pension or compensation from the Veterans Administration may waive retired pay in the amount of the pension or compensation. By doing this, the pension or compensation, which is not subject to Federal withholding taxes, will remain in effect. Individuals may also waive their retired pay in its entirety and continue to receive their pension or compensation from the Veterans Administration. Waiver concerning the above will be made after retired pay orders are issued by the CG, ARPERCEN (38 USC 3105).

4-4. Survivor benefits

Entitlement to retired pay ceases immediately on the date of the soldier's death. The person who the soldier designated as beneficiary for his or her unpaid retirement pay will be eligible for the amount of pay due up to and including his or her date of death. If no

beneficiary has been designated, such payment will be made to the proper survivor as shown in AR 37-104-1.

4-5. Medical care

Persons authorized retired pay under this regulation (including those who have less than 8 years of active duty) and their dependents as defined in 10 USC 1072, are authorized medical care benefits in medical facilities of the uniformed services under the provisions of 10 USC 1074(b) and 1076(b) as amended by section 2 of the Military Medical Benefits Amendments of 1966 (PL 89-614). These retired soldiers and their wives, children, and dependent husbands are also authorized civilian medical care benefits under the provisions of PL89-614 with the Government paying a major portion of the cost. Such persons lose eligibility for civilian health benefits

under this program upon reaching age 65, if they are eligible for Social Security hospital insurance benefits. (PL 89-614; 80 Stat. 862).

4-6. Commissary and exchange privileges

Persons authorized retired pay under this regulation and their legal dependents are authorized commissary and exchange privileges. (See AR 60-20 and AR 30-19.)

4-7. Entitlement

The entitlement portion of this regulation has been approved by the Department of Defense Military Pay and Allowance Committee under procedures prescribed by the Secretary of Defense in accordance with 37 USC 1001.

(Letterhead of issuing authority)

SUBJECT: Notification of Eligibility for Retired Pay at Age 60

TO:

This is to notify you that, having completed the required years of service, you will be eligible for retired pay upon application at age 60 in accordance with the provisions of Title 10 USC, Chapter 67. Your eligibility for retired pay may not be denied or revoked on the basis of any error, miscalculation, misinformation, or administrative determination of years of creditable service performed unless it resulted directly from fraud or misrepresentation on your part. Notwithstanding the foregoing, the number of years of creditable service upon which retired pay is computed may be adjusted to correct any error, miscalculation, misinformation, or administrative determination, and when such correction is made you will be eligible for retired pay in accordance with the number of years of creditable service, as corrected, from the date retired pay is granted.

In the event you are now or later become entitled under any other provision of the law to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or Fleet Marine Corps Reserve, you will not be entitled to retired pay under the provisions of 10 USC, 1331.

*(authority line of official having
general responsibility for issuance)*

*(signature and signature block of
authenticating officer or employee
in accordance with AR340-15)*

Figure 2-1. Format for notification

Unclassified

PIN 067756-000

USAPA

ELECTRONIC PUBLISHING SYSTEM
TEXT FORMATTER ... Version 2.56

PIN: 067756-000

DATE: 12-21-98

TIME: 13:59:48

PAGES SET: 10

DATA FILE: rc8x.fil

DOCUMENT: AR 135-180

DOC STATUS: NEW PUBLICATION